

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3712 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AGRICULTURAL PRODUCE MARKET COMMITTEE

Versus

RAJKOT GUL MERCHANTS ASSO.

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Appearance:

MR GR UDHWANI for Petitioner

MS MAMTA VYAS for Respondent No. 1

MR SAMIR DAVE for Respondent No. 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/10/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, Agricultural Market Produce Committee, Rajkot, filed this writ petition before this Court against the order of the State Government dated 20th March 1986 annexure 'A', and the notification dated 21st June 1986, annexure 'B'.

2. 'Gul' was included as specified item for the purpose of imposing agricultural cess upon production of such agricultural produce. The respondent No.1 as well as some other 'Gul' merchants made a grievance to the effect that since the quantum of production of 'Gul' in the market area of the petitioner is very short and since some of the market committees in Gujarat have not included 'Gul' as specified item under the list, the 'Gul' which has been included as specified item in the market area of the petitioner committee is bad in law. The respondent No.1 and other 'Gul' merchants had filed the petition being Special Civil Application No.860 of 1984 before this Court, which has been disposed of by this Court with directions that the petitioner therein will make the representation to respondent No.2 in respect of the subject matter of this petition. The respondent No.2 shall consider it, keeping in view the policy if any, adopted in such case and dispose of the same within six weeks from the date of the receipt of the same. Thereafter the respondent No.2 decided the matter and representation made by respondent No.1 and other 'Gul' merchants has been rejected. The respondent No.1 then preferred a Revision Application before the State Government and that Revision Application has been accepted vide order dated 20th March 1986 and it has deleted agricultural produce, viz. 'Gul' as specified item under the list for the purpose of market cess. A notification in pursuance thereof has also been issued on 21st June 1986. In this petition the petitioner has challenged that order. This Court has declined to grant any interim relief to the petitioner, meaning thereby for all these years, the notification dated 21st June 1986 remained in operation. The learned counsel for the petitioner very fairly conceded that these are not the matters which have once for all been decided and hence frozen. It is always open to the respondent No.2 to consider afresh for inclusion of 'Gul' as specified agricultural produce in the market area for the purpose of levy of agricultural produce cess. The learned counsel for the petitioner contended that the decision given by the State Government in the Revision Application may come in way of respondent No.2 to decide the matter. However, the counsel for the respondent No.1 as well as respondents No.2 and 3 very fairly conceded that in case this Court makes observation that the matter may be considered afresh on representation of the petitioner by respondent No.2, the decision of Revision Application will not come in way of the said authority to decide the matter afresh.

3. Taking into consideration the totality of the

facts of the case, I consider it to be in the interest of justice to dispose of this matter in the manner that the petitioner is at liberty to make a representation to the respondent No.2 for inclusion of 'Gul' as specified agricultural produce for levy of agricultural produce cess in the market area within a period of two months from today and in case such a representation is made by the petitioner, the respondent No.2 shall decide the same within three months next thereafter. However, the respondent No.2 shall give hearing to the respondent No.1 also if it so desires. It shall be open for respondent No.1 also to make all objections against representation, if any made by the petitioner. The petitioner shall send a copy of representation, if it decides to make, to the respondent No.2, to respondent No.1 by registered post A.D. It is made clear that the respondent No.2 shall decide the matter afresh without taking into consideration what has been decided earlier by respondent No.1 in this matter. It is also made clear that these matters are not res-judicata and at one point of time even if for given reasons a particular agricultural produce was not declared to be specified item for agricultural produce cess in the market area it is always open for respondent No.1 to consider this matter afresh in the changed circumstances. This Special Civil Application stands disposed of in aforesaid terms with no order as to costs. Rule stands disposed of accordingly.

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(sunil)